

REMARKS

This Amendment is responsive to the Office Action mailed on March 16, 2004. Entry of this Amendment and reconsideration of the instant application in view thereof are respectfully requested.

Assuming entry of the amendments to the claims set forth in this Amendment, the status of the claims is as follows:

Currently Amended:	1-2 and 4-20
Cancelled:	3
New:	21-23
Pending:	1-2 and 4-23

Claims

Claims 1-20 were pending. Claims 1-20 stand or stood rejected.

Claim 3 has been canceled without prejudice or disclaimer of the subject matter contained therein.

Claims 1-2, and 4-20 have been amended to more clearly define the invention and new claims 21-23 have been added. No new matter is added.

It is believed that entry of this Amendment will require an additional claim fee of \$36.00 for two additional, dependent claims. Applicant hereby authorizes the Commissioner to charge the additional claim fees deemed required for entry of this amendment to Deposit Account No. 18-1850.

Support

Support for the amendments to the claims is either apparent or as set forth herein. Support for the recitation --wherein the first population of polymer particles and the second population of polymer particles are derived from polymers derived from diene, diene/vinyl aromatic or crosslinked diene/vinyl aromatic monomers; polymers derived from (C₁ to C₂₀) alkyl (meth)acrylates; copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates; copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates which vary in comonomer ratio; copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates which vary in comonomer ratio to provide for differences in glass transition temperature; ethylene-vinylacetate ("EVA") type copolymers; polymers derived from olefins; copolymers or blends containing copolymers derived from (C₁ to C₂₀) alkyl

(meth)acrylates mixed with EVA; and, copolymers or blends containing copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates mixed with polyolefins;-- may be found in the specification at, for example, page 31, lines 28-32. Support for the recitation --wherein the first population of polymer particles has a mean particle diameter of 300 to 50,000 nm,-- may be found in the specification at, for example, page 10, lines 13-19 and page 7, line 20. Support for the recitation --wherein the first population of polymeric additive particles has a mean particle diameter in the range of from 300 to 600 nm-- may be found in the specification at, for example, page 10, lines 13-19. Support for the recitation --particles having a rubbery core and a hard shell-- may be found in the specification at, for example, page 12, lines 19-29. Support for the recitation--wherein the rubbery core accounts for 90 to 95 weight percent of the particles-- may be found in the specification at, for example, page 44, lines 7-8. No new matter is added.

Claim Rejections for Double Patenting

Claims 1-20 stand or stood provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-20 of copending Application Serial No. 09/944,289. Without conceding the validity of this provisional rejection, Applicants have elected to submit a terminal disclaimer. Reconsideration and withdrawal of this provisional rejection are respectfully requested.

Claim Rejections under 35 USC §§ 102 & 103

Claims 1-7 stand or stood rejected under 35 U.S.C. § 102 as anticipated by or, in the alternative, under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 4,245,070 (Kemp). Without conceding the validity of any of the assertions proffered by the Examiner, Applicants have elected to amend the claims to more clearly define the invention.

Applicants respectfully note that Kemp (U.S. 4,245,070) specifically teaches that the particles produced by the method disclosed therein "are separated from the polymerizing medium." (emphasis added)(col. 7, lines 40-45; hereinafter 7:40-45). The dried polymer particles obtained by the method disclosed in Kemp are then mixed with dioctyl phthalate in the examples. (see, e.g., 8:60-64). Kemp does not disclose, teach or suggest a polymeric additive system comprising a liquid component which contains at least 5 weight percent water. Accordingly, Kemp does not teach, disclose or suggest the invention encompassed by the claims,

as amended. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1-3, 5-8, 11 and 13-20 stand or stood rejected under 35 U.S.C. § 102 as anticipated by, or in the alternative, under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 5,726,259 (Hayes, et al.). Claims 1-3, 5-8, 11 and 13-20 also stand or stood rejected under 35 U.S.C. § 103 as unpatentable over the combination of Hayes, et al. and U.S. Patent No. 6,028,135 (Keller, et al.). Without conceding the validity of any of the assertions proffered by the Examiner, Applicants have elected to amend the claims to more clearly define the invention.

Applicants respectfully note that Hayes, et al, alone or in combination with Keller, et al., fail to disclose or suggest a functional liquid-solid additive system as currently claimed in the present application. Specifically, Hayes, et al., alone or in combination with Keller, et al., fail to disclose, teach or suggest a functional liquid-solid additive system having a population of polymer particles exhibiting a mean average particle diameter of 300 to 50,000 nm. That is, Hayes, et al. disclose a bimodal latex having small size particles (50-80 nm) and large size polymer particles (150-200 nm). (See, e.g., 2:40-46). Accordingly, Hayes, et al. do not teach, disclose or suggest the invention encompassed by the claims, as amended, whether taken alone or in combination with Keller, et al. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1-3 and 5-8 stand rejected under 35 U.S.C. § 102 as anticipated by or, in the alternative, under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 6,245,848 (Espiard, et al.). Without conceding the validity of any of the assertions proffered by the Examiner, Applicants have elected to amend the claims to more clearly define the invention.

Applicants respectfully note that Espiard, et al. disclose "a latex containing two populations of particles of polymers based on vinyl chloride, respectively exhibiting mean diameters of between 0.9 and 1.3 μm [900-1,300 nm] and between 0.15 and 0.3 μm [150-300 nm]...." (1:34-37). The claims of the present invention involve liquid-solid additive systems having two populations of polymer particles, wherein the first population of polymer particles and the second population of polymer particles are derived from polymers derived from diene, diene/vinyl aromatic or crosslinked diene/vinyl aromatic monomers; polymers derived from (C₁ to C₂₀) alkyl (meth)acrylates; copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates; copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates which vary in comonomer ratio; copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates which vary in comonomer ratio to

provide for differences in glass transition temperature; ethylene-vinylacetate ("EVA") type copolymers; polymers derived from olefins; copolymers or blends containing copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates mixed with EVA; and, copolymers or blends containing copolymers derived from (C₁ to C₂₀) alkyl (meth)acrylates mixed with polyolefins.

That is, in the claims, as amended, the first population of polymer particles and the second population of particles are not derived from vinyl chloride. Moreover, claim 5, as amended, limits the mean particle diameter of the first population of polymer particles from 300 to 600 nm, which particle size range is outside the range disclosed and taught by Espiard, et al.

Accordingly, Espiard, et al. do not teach, disclose or suggest the invention as claimed. Rather, Espiard, et al. specifically teach away from the polymer particle compositions and mean particle diameters of the present invention as claimed. Reconsideration and withdrawal of this rejection are respectfully requested.

Closing Remarks

Applicants thank the Examiner for the Office Action and believe this response to be a full and complete response to such Office Action. Accordingly, favorable reconsideration and allowance of the pending claims are earnestly solicited.

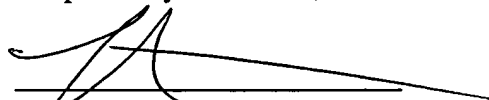
FEE DEFICIENCY

☒ If an additional extension of time is deemed required for consideration of this Amendment, please consider this Amendment to comprise a Petition for such an extension of time; The Commissioner is hereby authorized to charge the fee for any such extension to Deposit Account No. 18-1850.

and/or

☒ If any additional fee is deemed required for consideration of this Amendment, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 18-1850.

Respectfully submitted,


Thomas S. Deibert
Registration No. 40,984
Attorney for Applicants

Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106-2399
Phone: (215) 592-2181
Fax: (215) 592-2682